State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0270/1
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SENATE SUBSTITUTE AMENDMENT 1,

TO SENATE BILL 670

January 26, 2018 – Offered by Senator KAPENGA.

AN ACT ***to create*** 49.45 (24d), 146.78 and 600.01 (1) (b) 13. of the statutes; **relating to:** direct primary care pilot study for Medical Assistance recipients and direct primary care agreements.

Analysis by the Legislative Reference Bureau

This substitute amendment allows a health care provider and an individual patient or employer to enter into a direct primary care agreement and requires the Department of Health Services to create a work group to study direct primary care for Medical Assistance recipients and propose a pilot program. A direct primary care agreement is a contract in which the health care provider agrees to provide routine health services such as screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury. A valid direct primary care agreement outside of the Medical Assistance program must, among other things, state that the agreement is not health insurance and that the agreement alone may not satisfy individual or employer insurance coverage requirements under federal law. The substitute amendment prohibits discrimination in the selection of patients to enter into a direct primary care agreement. The substitute amendment exempts direct primary care agreements from the application of insurance law.

The substitute amendment requires DHS to convene a work group including managed care organizations, hospitals, health systems, and health care providers,

including physicians who practice under direct primary care agreements, to study integrating direct primary care agreements into the Medical Assistance program in a manner that minimizes disruption of the Medical Assistance managed care structure. DHS is required to, in consultation with the work group and any other applicable regulatory agencies, propose a direct primary care pilot program in the Medical Assistance program and, by December 31, 2018, submit that proposal and any recommendations of it or the work group to a standing committee in each house of the legislature with jurisdiction over health, as determined by the presiding officer of each house. The substitute amendment requires each committee to conduct a hearing on the report. Each committee must then introduce legislation on a direct primary care pilot program in the Medical Assistance program based on its findings as a result of the hearing.

The substitute amendment also requires DHS, in consultation with the work group, to study and submit a report to the same legislative committees regarding the implementation of an alternative payment model for potentially preventable hospital readmissions of Medical Assistance recipients.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 49.45 (24d) of the statutes is created to read:

49.45 **(24d)** DIRECT PRIMARY CARE PROGRAM STUDY; ALTERNATIVE PAYMENT MODEL.

(a) In this subsection, "direct primary care agreement" has the meaning given in s. 146.78 (1) (a).

(b) As soon as practicable after the effective date of this paragraph .... [LRB inserts date], the department shall convene a work group including managed care organizations, hospitals, health systems, and health care providers, including physicians who practice under direct primary care agreements, to study integrating direct primary care agreements into the Medical Assistance program under this subchapter in a manner that minimizes disruption of the Medical Assistance managed care structure. The department, in consultation with the work group and any other applicable regulatory agencies, such as the federal department of health and human services, shall propose a direct primary care pilot program in the Medical

Assistance program and, by December 31, 2018, shall submit that proposal and any recommendations of the work group or the department to a standing committee in each house of the legislature with jurisdiction over health, as determined by the presiding officer of each house. If the proposed pilot program includes providing services to children who are Medical Assistance recipients under direct primary care agreements, the direct primary care agreements under the pilot program shall provide the children access to a physician.

(c) Within 60 days of receiving the proposed pilot program under par. (b), each committee shall conduct a hearing on the proposal. Each committee shall introduce legislation in the 2019 legislative session on a direct primary care pilot program in the Medical Assistance program based on its findings as a result of the hearing.

(d) By June 30, 2019, the department, in consultation with the work group created under par. (b), shall study and submit a report to each legislative committee identified under par. (b) regarding the implementation of an alternative payment model for potentially preventable hospital readmissions of Medical Assistance recipients.

SECTION 2. 146.78 of the statutes is created to read:

146.78 Direct primary care agreement. (1) DEFINITIONS. In this section:

(a) "Direct primary care agreement" means a contract between a health care provider and an individual patient or his or her legal representative or employer in which the health care provider agrees to provide routine health care services to the individual patient or employees for an agreed–upon fee and period of time.

(b) "Health care provider" has the meaning given in s. 146.81 (1) (a) to (p).

(c) "Routine health care service" means screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury.

(2) VALID AGREEMENT. A health care provider and an individual patient or an employer may enter into a direct primary care agreement. A valid direct primary care agreement meets all of the following criteria:

(a) The agreement is in writing.

(b) The agreement is signed by the health care provider or an agent of the health care provider and the individual patient, the patient's legal representative, or a representative of the employer.

(c) The agreement allows either party to the agreement to terminate the agreement upon written notice to the other party.

(d) The agreement describes and quantifies the specific routine health care services that are provided under the agreement.

(e) The agreement specifies the fee for the agreement and specifies terms for termination of the agreement, including any possible refund of fees to the patient.

(f) The agreement specifies the duration of the agreement.

(g) The agreement prominently states, in writing, that the agreement is not health insurance and that the agreement alone may not satisfy individual or employer insurance coverage requirements under federal law.

(h) The health care provider and the patient are prohibited from billing an insurer or any other 3rd party on a fee–for–service basis for the routine health care services provided under the agreement.

(i) The agreement prominently states, in writing, that the individual patient must pay the provider for all services that are not specified under the agreement.

(j) The agreement prominently states, in writing, that the patient is encouraged to consult with his or her health insurance carrier, if the patient has health insurance, before entering into the agreement, that some services provided under the agreement may be covered under any health insurance the patient has, and that direct primary care fees might not be credited toward deductibles or out–of–pocket maximum amounts under the patient's health insurance, if the patient has health insurance.

(3) PATIENT SELECTION. In selecting patients with whom to enter into a direct primary care agreement, a health care provider may not discriminate on the basis of age, citizenship status, color, disability, gender or gender identity, genetic information, health status, existence of a preexisting medical condition, national origin, race, religion, sex, sexual orientation, or any other protected class. A health care provider may base fees under a direct primary care agreement on age.

(4) INSURANCE NETWORK PARTICIPATION. A health care provider who has a practice in which he or she enters into direct primary care agreements may participate in a network of a health insurance carrier only to the extent that the provider is willing and able to comply with the terms of the participation agreement with the carrier and meet any other terms and conditions of network participation as determined by the health insurance carrier.

SECTION 3. 600.01 (1) (b) 13. of the statutes is created to read:

600.01 **(1)** (b) 13. Valid direct primary care agreements under s. 146.78 (2).

(END)